



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 12th May, 2006:—

I

BILL NO. XXVII OF 2006

A Bill further to amend the Constitution of India

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2006.
(2) It shall come into force at once.

Short title and
commencement.

2. After article 21A of the Constitution, the following article shall be inserted, namely:—

Insertion of
new article
21B.

“21B. (1) All citizens shall have the right—

Right to
pollution free
environment
and civic
amenities.

(a) to pollution free environment that is to say environment free from air pollution, water pollution, noise pollution and having the appropriate and requisite forest cover in the country; and

(b) to civic amenities such as potable water, appropriate sewerage and drainage system, periodic removal of garbage and cleaning of localities, roads and other surroundings and healthcare facilities.

(2) The State shall protect the environment from being polluted and provide civic amenities to the citizens referred to in clause (1)."

Amendment of
article 51A.

3. In article 51A of the Constitution, after clause (k) the following clauses shall be inserted, namely:—

(l) to maintain cleanliness and hygiene in residential homes or dwelling units, streets, localities, roads and work places by not littering and depositing the litter, wastes, and garbage in the dustbins and places meant for that purpose and by preventing others from littering and polluting the atmosphere in any manner whatsoever;

(m) to maintain cleanliness in public places such as parks, bus stops, railway stations, markets, etc. and roads by not littering, spitting, urinating, defecating, defacing such places.

STATEMENT OF OBJECTS AND REASONS

These days a number of cases of dangerous diseases like gastroenteritis, cholera, hepatitis, encephalitis, Viral fever, chronic asthma, allergy, etc. are on the rise and many a times these appear in the epidemic form mainly because of insanitation and unhygienic conditions prevailing almost every nook and corner of the country. The air has been polluted by vehicular emissions, dust, burning of piles of leaves of trees, grass and emission of smoke by the factories, homes and eateries like hotels, *dhabas*, etc. by smoking and gases released in the environment. The water too has been polluted by industrial effluents and wastes from homes, shops and other establishments and excess of chemicals and metals in the ground water and pesticides and chemicals dissolved in the water. Noise pollution is another problem. Few years ago Gujarat and northern parts of the country had the Plague epidemic caused by insanitation and neglect of civic amenities. Even today it is common that garbage stinks in the garbage bins germinate dangerous virus because it is not removed periodically by the local bodies. People too do not adhere to cleanliness. They litter, spit, urinate or defecate anywhere be it roadside, park, street, lane and wall of a building resulting in unhygienic conditions everywhere and piling of garbage and dirt at most of the places.

The citizens have no means to force the local Governments to provide civic amenities. It is therefore, proposed to make pollution free environment and civic amenities as Fundamental Right of the citizens. At the same time maintenance of cleanliness has also to be made a fundamental duty of the citizens.

Hence this Bill.

E.M. SUDARSANA NATCHIAPPAN

II

BILL NO. XXV OF 2006

A Bill to provide for the identification of children employed in industries, occupations, households and establishments, eateries etc., for rescuing them from such employment and for their proper rehabilitation and for welfare measures to be undertaken by the State through education, training and such other measures for the rescued working children and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Working Children (Rescue, Rehabilitation and Welfare) Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "child" means any boy or girl who is below the age of fifteen years;

(c) "competent authority" means such authority which has been so authorized by the appropriate Government by notification in the Official Gazette to perform all or any of the functions of competent authority under this Act and also for such area or areas as may be specified therein;

(d) "employer" means,—

(i) in relation to an establishment the person who has the ultimate control over the affairs of such establishment;

(ii) in relation to a house, the head of the family;

(iii) in relation to a shop, *dhaba* stall, restaurant, hotel, kiosk, *rehri* or similar places the owner thereof; and

(iv) in relation to agricultural operation, the person for whom the agricultural operation or work is done, undertaken or accomplished.

(e) "establishment" includes a household, factory, mine, plantation site, agricultural field, shop, kiosk, stall, *dhaba*, *rehri*, tea stall hotel, restaurant, circus, exhibition, vending place or vehicle, garage or auto repair shop, or any place or premises in which children are employed for working;

(f) "prescribed" means prescribed by rules made under this Act.

3. (1) On the commencement of this Act, child labour in any form whatsoever shall stand abolished and every working child on such commencement shall stand freed and discharged from any obligation to render any work, be it forced or bonded labour for any employer or establishment.

Abolition of
Child labour.

(2) After the commencement of this Act,—

(a) no person shall for himself or for any establishment either employ a child or compel any child to render any forced or bonded labour;

(b) no parent or guardian of a child shall pledge his child to anybody for any work; and

(c) any custom or tradition or any contract, agreement or other instrument by virtue of which any child is required to do any work or render any service as a worker shall be void and inoperative.

4. (1) The appropriate Government shall, from time to time as per the need, make surveys to identify and enumerate children working in various establishments and prepare a record thereof in such manner and with such details, as may be prescribed.

Survey,
enumeration
and rescue of
working
Children.

(2) The appropriate Government shall rescue all the working children identified and enumerated under sub-section (1) in such manner as may be prescribed.

(3) The working children rescued under sub-section (2) shall be lodged in shelters established by the appropriate Government for rehabilitation of such working children where such children shall be provided the following facilities, namely:—

(a) free food, clothing, boarding, lodging and other necessities of daily life;

(b) free medical care; and

(c) such other facilities as may be prescribed.

Educational
Facilities.

5. The working children covered under this Act shall be provided the following educational facilities by the appropriate Government, namely:—

- (a) free education as per his calibre for such level and period as may be prescribed;
- (b) free vocational education and training;
- (c) free medical and engineering education and computer training wherever necessary; and
- (d) provision of employment after the completion of education.

Establishment
of Shelters.

6. The appropriate Government shall establish and run such number of shelters as the Competent Authority may deem necessary for the rehabilitation of rescued working children under this Act.

Establishment
of National
Child Labour
Rehabilitation
Cum Welfare
Fund.

7. (1) With effect from such date, as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be established for the purposes of this Act, a fund to be called the 'National Child Labour Rehabilitation cum Welfare Fund' to be operated by the Competent Authority in such manner as may be prescribed.

(2) The Fund established under sub-section (1) shall consist of all receipts from,—

- (a) the Central and State Governments and institutions and organizations;
- (b) body corporates, both of public and private sectors; and
- (c) individuals, associations and others in the form of contributions or donations.

Central
Government
to provide
requisite
funds.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Penalty.

9. Whoever, after the commencement of this Act, employs or compels any child to render labour shall be punishable with imprisonment for a term which shall not be less than four years but may extend to seven years and also with fine which may extend to one lakh rupees.

Offences to
be cognizable,
non-bailable
and sum-
marily triable.

10. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be cognizable, non bailable and shall be tried summarily by a magistrate.

2 of 1974.

Offences by
Companies.

11. Where an offence under this Act has been committed by a Company, every person who, at the time, offences were committed, was incharge of and was responsible to the Company for the conduct of the business of the Company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Jurisdiction of
Civil Courts
barred.

12. No Civil Court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any Civil Court in respect of anything which is done or intended to be done by or under this Act.

Act to have
overriding
effect.

13. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to
make rules.

14. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

According to 2001 Census, in the age group of 5—14 years there are nearly 1.26 crore working children in our country. Most of them work in hazardous conditions and are consistently exploited. Quite a large number of them work in carpet factories, brick kilns, stone and limestone mines etc., as a bonded labourer. Children also work in Beedi rolling factories, bangle manufacturing units, cracker factories, hotels, tea stalls, *dhabas*, garages, cycle and other vehicle repairing shops, agricultural fields, *ferriwallas*, domestic servants and various other kinds of working places. At the school going age and when it's time to enjoy the childhood the hapless children are forced to work from the very tender age either for their own survival or to support their poor families. Many a time alcoholic or drug addict, or gambler parents also force their wards to work. These unfortunate children remain illiterate and exploited. They generally get meagre salary and many a time only two square meals and a pair of clothes. They do not get proper medical care at the time of need and are left to their destiny.

Though child labour is prohibited by law but laws are flouted without any fear because the laws are not credibly deterrent. Such Law breakers must get stringent punishment. In a Welfare State like ours the State has to come forward to rehabilitate the child workers through education, training and other means. A National Child Labour Rehabilitation-cum-Welfare Fund should be established for them so that their childhood is saved from exploitation and they grow as responsible citizens.

Hence this Bill.

E.M. SUDARSANA NATCHIAPPAN

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for rehabilitation of the rescued children by giving them free food, medical care etc. Clause 5 provides for educational facilities for working children. Clause 6 provides for the establishment of shelters for such children. Clause 8 makes it mandatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of two thousand crore rupees may involve as recurring expenditure per annum.

A non-recurring expenditure to the tune of rupees two thousand crore may also involve from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

III

BILL NO. XXXV OF 2006

A Bill to provide for the prevention of commercialized girl child trafficking wherein a girl child is forced into prostitution after luring, procuring or kidnapping her or dedicating her as devadasi for commercial gains by providing deterrent punishment including capital punishment for such commercialization and for rehabilitation of such girl child and for welfare measures to be undertaken by Government and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Commercialized Girl Child Trafficking (Prevention, Rehabilitation and Welfare) Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "girl child" means a female who is below the age of eighteen years;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "trafficking" includes forcing the girl child into prostitution or for any unlawful and immoral purpose or procuring or supplying the girl child for such purpose or dedicating the girl child as *devadasi* or *Bhavin* to ultimately end up as prostitute or hiring or obtaining possession of the girl child for promiscuous sexual purposes;

(e) words and expressions used and not defined in this Act but defined in the Indian Penal Code, 1860 or the Immoral Traffic (Prevention) Act, 1956 shall have the meanings respectively assigned to them in those Acts.

45 of 1860.
104 of 1956.

3. (1) The Commercialized girl child trafficking, in any manner, whatsoever, is hereby prohibited.

Prohibition of
girl child
trafficking for
commercial
purposes.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

4. Notwithstanding anything contained in any other law for the time being in force, whoever,—

Penalty.

(a) forces a girl child to prostitution for commercial gains, notwithstanding the family relation of such girl child with the accused shall be punished with death;

(b) lures, procures or takes charge of a girl child for indulging in immoral traffic of such girl child for the purposes of prostitution or for any unlawful and immoral purpose, shall be punishable with imprisonment for life and also with fine which may extend to five lakh rupees;

(c) hires or otherwise obtains possession of a girl child for promiscuous sexual abuse of her shall be punished with life imprisonment and also with fine which may extend to five lakh rupees.

(d) provides a girl child to his customers including any domestic or foreign tourist for prostitution or for any unlawful and immoral purpose shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but may extend to life imprisonment and also with fine which shall not be less than two lakh rupees but may extend to five lakh rupees.

(e) dedicates a girl child as *devadasi* or *Bhavin* notwithstanding that the person is a natural guardian of the girl child, shall be punishable with imprisonment which shall not be less than five years but may extend to ten years and also with fine which may extend to one lakh rupees.

5. (1) Any girl child forced into commercialized trafficking covered under this Act shall be rescued by the Appropriate Government through the local police and produced before a Magistrate or Judicial Officer so designated by such Government for being lodged in a shelter home which shall be established by that appropriate Government.

Girl child
forced into
commercialized
trafficking to
be rescued by
the
appropriate
Government.

(2) Every girl child rescued and lodged in a shelter home under sub-section (1) shall be provided,—

(a) board and lodging with meals and other necessities of daily life free of cost;

(b) medical care free of cost;

(c) education including vocational, technical and medical education including training wherever required free of cost;

(d) employment in public employment through reservation and other means;

(e) such other facilities as may be prescribed.

Welfare
measures.

6. The appropriate Government shall formulate rehabilitation and such other welfare measures for a girl child, forced into commercialized trafficking who may be rescued under this Act in such manner as may be prescribed.

Central
Government
to provide
funds.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds, from time to time, for carrying out the purposes of this Act.

Act to have
overriding
effect.

8. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to
supplement
other laws.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the subject matter of this Act.

Power to
make rules.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

It is a matter of grave concern that these days commercialized girl child trafficking is going on in a very large scale and many a time in the name of adventure tourism in many parts of the country particularly, in Goa, Mumbai, Orissa, Rajasthan, Tamil Nadu, Kerala and other tourist destinations. Unfortunately, girl child trafficking or prostitution is rampant not only in our country but throughout the world and more so, in Asian and African countries where poverty persists in a big way. More and more adolescent girls are being forced into commercialized prostitution by pimps, anti-social elements, organized criminal gangs, brothel keepers, hoteliers, tour operators and in many cases even by their natural guardians and near and dear ones. Mostly the girls are lured on one pretext or the other promising a decent and comfortable lifestyle and forced into trafficking. In other cases the girls are kidnapped and forced into prostitution. The girls are now even brought in from neighbouring countries like Nepal, Bangladesh, Myanmar, Bhutan, etc. for commercialized trafficking by organized gangs. In some parts of the country the young girls are dedicated to temples as *devadasi* or *Bhavin* and then used for trafficking. For this shoddy affairs all the tourists cannot be blamed but a few tourists do indulge in sex tourism.

The lives of the girl child prostitutes are in constant danger due to deadly AIDS, many of them also suffer from other sexually transmitted diseases. But those who are involved in commercialized girl child trafficking are least bothered about these hapless girl children and deserve deterrent punishment. It is, therefore, proposed that whoever forces a girl child into prostitution should be awarded death penalty. Those who procure the girl child for sexual pleasure and those who provide the girl child to the clients should get life imprisonment. Similar other proposals have also been made in this Bill so that the hapless innocent girls are saved not only from the cruel and inhuman profession of prostitution but also from the dreaded disease of AIDS and other sexually transmitted diseases.

Hence this Bill.

E.M. SUDARSANA NATCHIAPPAN

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the establishment of Shelter Homes for the rescued girl child from trafficking with provision of basic necessities of life, education medical care, etc. Clause 6 of the Bill provides for rehabilitation and other welfare measures for rescued girl child. Clause 7 provides for adequate funds to be provided by the Central Government for carrying out the purposes of this Act. The Bill if enacted will involve expenditure from the Consolidated Fund of India. Though it is very difficult to estimate the expenditure at this juncture it is estimated that a sum of rupees five hundred crore may involve as recurring expenditure per annum.

A sum of rupees one thousand crore may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

IV

BILL NO. XXXII OF 2006

A Bill to provide for deterrent punishment for pushing or forcing the girl child into flesh trade or prostitution and for immoral traffic of a girl child and for hiring or taking possession of a girl child prostitute by her client for promiscuous sexual activities and for the proper rehabilitation and welfare measures to be initiated by the State for such hapless girl child and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
Commencement.

1. (1) This Act may be called the Prevention of Pushing and Forcing Girl Child into Flesh Trade and Immoral Traffic Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "girl child" means a female human who is below the age of eighteen years;

(c) "prescribed" means prescribed by rules made under this Act;

45 of 1860.
104 of 1956.

(d) words and expressions used and not defined in this Act but defined in the Indian Penal Code, 1860 or the Immoral Traffic (Prevention) Act, 1956 shall have the meanings respectively assigned to them in those Acts.

3. (1) The pushing, forcing, abetting, procuring a girl child into flesh trade or prostitution or immoral traffic, by whatever name called, is hereby prohibited.

Prohibition of pushing or forcing girl child into flesh trade or prostitution.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

45 of 1860.
104 of 1956.

4. Notwithstanding anything contained in the Indian Penal code or the Immoral Traffic (Prevention) Act, 1956 or any other law for the time being in force, whoever,—

Penalty.

(a) abets or induces, by whatever means or in any manner whatsoever, a girl child to flesh trade or prostitution, notwithstanding the family or near or dear relation of such girl child with the accused or under any prevailing custom, shall be punished with imprisonment which shall not be less than five years but may extend to ten years and also with fine which may extend to five lakh rupees;

(b) pushes or forces a girl child to flesh trade or prostitution shall be punished with death;

(c) owns or runs a brothel having girl child prostitute, such owner or manager shall be punished with life imprisonment and also with fine which may extend to five lakh rupees;

(d) indulges in the immoral traffic of a girl child or for any unlawful or immoral purpose shall be punishable with imprisonment which may extend to ten years and also with fine which may extend to two lakh rupees;

(e) hires, procures or obtains possession of a girl child for promiscuous sexual intercourse with her shall be punished with life imprisonment and also with fine which shall not be less than five lakh rupees but may extend to ten lakh rupees.

2 of 1974

5. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 the offences under this Act shall be cognizable and non-bailable.

Offences to be cognizable and non-bailable.

6. (1) The offences under this Act shall be tried by Special Courts.

Special Courts to try the offences.

(2) The appropriate Government shall establish such number of Special Courts, as it may deem necessary for the purposes of sub-section (1) and for the quick disposal of cases under this Act.

7. The appropriate Government shall, as soon as may be, formulate rehabilitation and welfare measures for such girl child rescued from flesh trade or prostitution or who may be rendered out of profession after the commencement of this Act and these measures shall include free medical care, shelter, food, clothing and other necessities of day-to-day living, free education including vocational education, gainful employment, marriage and such other measures as may be prescribed.

Rehabilitation and other welfare measures.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate necessary funds, from time to time, for carrying out the purposes of this Act.

Central Govt. to provide necessary funds.

Act to have
overriding
effect.

9. The provisions of this Act and rules made thereunder shall have effect notwithstanding any thing inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make
rules.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In many cases the girls are kidnapped and forced into prostitution. They are also procured from the unsuspecting poverty-stricken parents for this purpose. This is very rampant in tribal and rural areas. Recently media reported that pimps have become active in drought affected areas luring the girls of such families into their net where hapless farmers took the extreme step of committing suicide. Even innocent girls from the neighbouring countries are also procured by anti social elements for this purpose.

The greed for more money is also pushing more and more adolescent girls into flesh trade as they fetch handsome amount from the prospective clients. These days when adventure tourism is gaining momentum the tourists who indulge in promiscuous sex for fun and joy prefer the girl child prostitutes. The professional pimps, anti social elements, criminal gangs, brothels' owners, call girl racketeers, tour operators, hoteliers and others are very active to mint money from the rich and neo rich prospective clients. As a first step to lure, the unsuspecting girls are promised a decent and comfortable life generally to provide a good employment or career in modeling or even a role in films. Once the girl is convinced the next step begins to tell her to have fun and enjoyment in five star hotels and earn handsomely which most of girls cannot reject because the temptation is raised to new heights. Once the girl takes the fatal step she lands into the world of prostitution. The deadly AIDS and other sexually transmitted diseases have endangered the lives of such hapless girls.

This alarming situation has to be tackled very effectively to save the girl child by dealing heavily with those who push or force the girl child into flesh trade or prostitution by providing deterrent punishment to the extent of death sentence to such defaulters. Deterrent punishment is also required for those who hire or obtain the girl child for sex, abet, lure or coerce a girl child to become prostitute irrespective of her relation with the girl child. There should be Special Courts to quickly try the cases. Time has come to save the unsuspecting girl child from this immoral profession and from AIDS and other dangerous diseases.

Hence this Bill.

SUSHMA SWARAJ

FINANCIAL MEMORANDUM

Clause 6 provides that offences under this Bill shall be tried by Special Courts. Clause 7 provides for rehabilitation and other welfare measures. Clause 8 provides that Central Government shall provide adequate funds for the purpose of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five hundred crores may involve as recurring expenditure per annum.

A sum of rupees two hundred crores may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

V

BILL NO. XXXIII OF 2006

A Bill to prevent barbarous cruelty against girls or women such as battering, killing by strangulating after committing rape, chopping the body or burning the girls or women alive and heinous crimes against the girls or women such as committing gang rape, publicly stripping and parading naked or raping pregnant woman resulting in her death or miscarriage or forcing the girls and women into prostitution by providing deterrent punishment including capital punishment and for matters connected therewith and incidental thereto

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Prevention of Heinous Crime and Barbarous Cruelty against Women Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "barbarous cruelty" includes,—

(i) committing rape on a girl or woman, as the case may be, and then killing her by battering, strangulating or by any other means;

(ii) after killing a girl or woman, as the case may be, disposing off her body by chopping into pieces or by burning or throwing at secluded place or nullah, river, canal or by burying;

(iii) burning an alive girl or woman, as the case may be, leading to her death;

(iv) killing a girl or woman, as the case may be, by way of gang rape;

(c) "heinous crime" includes,—

(i) committing gang rape on a girl or woman;

(ii) publicly stripping or parading naked in full public view of a girl or woman;

(iii) committing rape on a pregnant woman resulting in her death or miscarriage;

(iv) forcing a girl or woman into prostitution;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "special court" means a special court established under section 4.

45 of 1860.

3. (1) Notwithstanding anything contained in the Indian Penal Code, 1860 or any other law for the time being in force, whoever commits heinous crime or barbarous cruelty against any girl or woman, as the case may be, shall be punished with death.

Penalty for heinous crime or barbarous cruelty against women.

(2) The offences under this Act shall be tried by Special Courts.

4. (1) The appropriate Government shall, in consultation with the Chief Justice of the concerned High Court in the case of a State and the Chief Justice of India in other cases, by notification in the Official Gazette, constitute such number of Special Courts preferably to be presided over by women Judges as it may deem necessary for the purposes of this Act.

Constitution of Special Courts.

(2) The set up of a Special Court constituted under sub-section (1) shall be such as may be prescribed.

2 of 1974.

5. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 an offence committed under this Act shall be cognizable and non-bailable.

Offence to be cognizable and non-bailable.

6. Notwithstanding anything contained in any other law for the time being in force no court other than a High Court or the Supreme Court of India shall have the authority to grant anticipatory bail to any person accused of committing an offence under this Act.

Bar on granting anticipatory bail.

7. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette make such provisions, not inconsistent with the provisions of this Act as appears to it to be necessary or expedient for remove the difficulty.

Power to remove difficulty.

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but, save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force relating to cruelty against women.

Act to have overriding effect.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Girls and women are vulnerable to exploitation and atrocities in the society. Sex starved maniacs sexually abuse them whenever they get an opportunity and commit rape on them. However in many cases after committing rape on the hapless girl or woman she is killed brutally. She is battered, stabbed or strangulated. Many a time one comes across horrifying news of chopping the body of a hapless girl or woman into pieces, stacked into a gunny bag, etc. and thrown in the nearby jungle, nullah, river etc. so as to eliminate the evidence. Many a time gangrape is committed on a woman and thereafter, she is killed and her body is disposed off. Many a time the girls and women are stripped and paraded naked in the full public view to take revenge. Similarly, barbarous atrocities are committed on a pregnant woman when she is raped resulting in her death or miscarriage. Many a time the woman is burnt alive for dowry or other reasons. The girls and women are forced into prostitution. This heinous and barbarous cruelty against the girls and women needs to be prevented by providing capital punishment. It is also necessary that such offences should be tried by Special Courts headed by women judges which should also be made cognizable and non-bailable. It will certainly have the desired results.

Hence this Bill.

SUSHMA SWARAJ

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the Constitution of special Courts. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifty crores may involve as recurring expenditure per annum.

A sum of rupees twenty crores may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of Legislative power is of normal character.

VI

BILL NO. XXXIV OF 2006

A Bill to provide for the welfare measures to be undertaken by the State for the unorganised labour and agricultural workers by setting up a Welfare Authority and a Welfare Fund for the payment of minimum wages, for pension and provident fund facilities, maternity and creche facilities along with medicare to the women workers and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Unorganised Labour and Agricultural Workers (Welfare) Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may by notification in the Official Gazette, appoint.

Short title,
extent and
commence-
ment.

Definition.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of State the Government of that State and in other cases the Central Government;

(b) "Authority" means the Unorganised Labour and Agricultural Workers Welfare Authority established under section 3;

(c) "employer" means any person who employs, whether directly or through any other person, or contractor, whether on behalf of himself or on behalf of any other person, one or more labourer or workers for any work or work connected with the agricultural operations;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "unorganised labour" means those labourers who are not members of any labour or trade union and hired to do any work by another person;

(f) "wages" means the remuneration capable of being expressed in terms of money which shall, if the terms of the contract of employment, whether express or implied, are fulfilled, be payable to a person in respect of the work done in such employment;

(g) "Welfare Fund" means the Welfare Fund set up for the unorganized labour and agricultural workers under this Act;

(h) "workers" means an agricultural worker who earns wages on daily or any other basis working in the agricultural operations of other persons or employers.

Establishment
of the
Unorganised
Labour and
Agricultural
Workers
Welfare
Authority.

3. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, establish the Unorganised Labour and Agricultural Workers Welfare Authority for the purposes of this Act.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The head office of the Authority shall be at New Delhi and the Authority may establish offices at other places in the Country as it may deem necessary.

(4) The Authority shall consist of the following members, namely:—

(a) a Chairperson to be appointed by the Central Government having the background of labour related issues or of a farmer or of the judiciary;

(b) a Deputy Chairperson to be appointed by the Central Government having such qualifications as may be prescribed;

(c) three members of Parliament of whom two shall be elected by Lok Sabha and one by the Rajya Sabha;

(d) three members to be appointed by the Central Government to represent respectively:—

(i) the Ministry of Central Government dealing with Agriculture;

(ii) the Ministry of Central Government dealing with Labour and Employment;

(iii) the Ministry of Central Government dealing with Finance;

(e) four members to be appointed by the Central Government from amongst the unorganised labour and agricultural workers;

(f) four members to be nominated by the State Governments to be rotated amongst the States in alphabetical order.

(5) The term of office of the Chairperson, Deputy Chairperson and members of the Authority and the procedure to be followed in the discharge of the functions of the Authority shall be such, as may be prescribed.

(6) The Authority shall have a Secretariat with such officers and staff and with such terms and conditions of service as may be prescribed.

4. (1) It shall be the duty of the Authority to promote and undertake by such measures as it thinks fit or deem necessary, welfare measures for the unorganized labour and agricultural workers.

Functions of
the Authority.

(2) Without prejudice to the generality of the provisions of sub-section (1) the measures referred to therein may provide for,—

(a) maintaining a district wise register of unorganized labour and agricultural workers with such particulars and in such manner, as may be prescribed;

(b) maintaining land records from village or Panchayat level to district level;

(c) maintaining a district wise register of employers employing unorganized labour and agricultural workers with such particulars and in such manner as may be prescribed;

(d) availability of work round the year to the unorganized labour and agricultural workers;

(e) payment of old age pension to the unorganised labour and agricultural workers;

(f) Provident Fund facility to the unorganised labour and agricultural workers;

(g) medical care, free of cost, both the indoor and outdoor patient facilities to the unorganised labour and agricultural workers;

(h) maternity and creche facilities for the female workers covered under this Act;

(i) such other provisions as the Authority may deem necessary for the purposes of this Act.

5. (1) The Central Government shall as soon as may be, by notification in the Official Gazette, establish a Welfare Fund known as the Unorganised Labour and Agricultural Workers Welfare Fund for the purposes of this Act with initial corpus of rupees one thousand crores to be provided by the Central Government by due appropriation made by law by Parliament in this behalf and thereafter the Central Government, State Governments and employers shall contribute to the Welfare Fund to such extent and in such manner as may be prescribed.

Unorganised
Labour and
Agricultural
Workers
Welfare Fund.

(2) Corporate houses, financial institutions both domestic and international, individuals and bodies may also contribute through donations or otherwise to the Welfare Fund.

(3) All moneys received in the Welfare Fund shall be utilised for the welfare of the unorganised labour and agricultural workers by the Authority in such manner as the Central Government may prescribe from time to time.

6. Notwithstanding anything contained in any other law for the time being in force,—

Miscella-
neous
provisions.

(a) no employer shall engage any unorganised labourer or agricultural worker, as the case may be, unless he has registered himself with the Authority;

(b) every employer shall pay a minimum of rupees one thousand five hundred per month or rupees fifty per day to a labourer or worker covered under this Act engaged by him for work and this rate of wages shall be subject to change in accordance with the rise in price index;

(c) every day of the work done by the worker or labourer covered under this Act, shall be counted for the purpose of calculating the total period of service rendered by such worker or labourer in a month or a year.

Penalty.

7. Whoever contravenes any of the provisions of this Act shall be guilty of an offence and punishable with simple imprisonment which shall not be less than six months but may extend to two years and also with fine, which may extend to one lakh rupees.

Savings.

8. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to
remove
difficulty.

9. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order to give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of the difficulty and any such order shall be final.

Power to
make rules.

10. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Unorganised labour constitute the major chunk of the working classes in the country. Our country is predominantly rural with nearly 80 per cent of its population living in the rural areas. Therefore, agricultural workers constitute majority of the rural labour in the country. The agricultural workers too are unorganised. It has been observed that the organised labour through its bargaining power and means of strike and agitations, etc. through their Unions manages to get its demands, whether reasonable or unreasonable, fulfilled but the unorganised labour including the agriculture workers feel helpless even in getting its reasonable demands like the minimum wages, availability of work round the year, pension, provident fund, maternity benefit, creche, etc. fulfilled. They remain hand to mouth and exploited throughout their lives. Their condition is becoming worse day by day and there is no legal protection for the unorganised labour including agricultural workers.

Ours is a welfare state and considering the vast number of unorganised labour and agricultural workers in the country and their immense contribution to the national wealth and resources, it is high time that these vital sections of the society are extended welfare measures and given all possible legal protection.

This Bill seeks to achieve the above objectives.

SUSHMA SWARAJ

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Unorganised Labour and Agricultural Workers Welfare Authority. Clause 5 of the Bill provides for the Unorganised Labour and Agricultural Workers Welfare Fund. The Bill if enacted will involve expenditure from the Consolidated Fund of India. Apart from one thousand crore rupees of initial corpus of the welfare fund, it is estimated that a sum of rupees two thousand crores may involve as recurring expenditure per annum.

A sum of rupees fifty crores may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VII

BILL NO. XXXVII OF 2006

A Bill to provide for issue of multi-purpose smart cards to every citizen in the country and matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Citizens Smart Card Act, 2006.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

Definitions.

2. In this Act unless the context otherwise requires, —

(a) "citizen" means a citizen of India as defined under the Citizenship Act, 1955 57 of 1955, who is above eighteen years of age;

(b) "competent authorities" means authorities declared by the Central Government competent to issue and change particulars of a smart card under this Act;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "smart card" means a plastic or fibre glass card containing such details on a microchip or magnetic strip as may be prescribed under this Act for the purpose of multi usage;

3. (1) The Central Government shall, within a period of six months from the date of commencement of this Act, issue a smart card to every citizen living in a city having a total population of thirty lakhs and above as per the 2001 census:

Issuance of smart cards.

Provided that by 2008, the Central Government shall issue smart card to each and every citizen in the country;

(2) The smart card issued under sub-section (1) shall contain the following information, namely:—

(a) Full name in capital letters with photograph of the citizen;

(b) Date of birth;

(c) Permanent address;

(d) Temporary address, if any;

(e) Occupation;

(f) Educational qualification;

(g) Blood group;

(h) PAN Number, if any;

(i) Driving licence details, if any;

(j) Bank accounts details, if any; and

(k) Passport details, if any.

(3) The smart card shall be prepared displaying only a few particulars and encoding the rest mentioned in sub-section (2) in such manner as may be prescribed.

(4) The Central Government shall by notification in the Official Gazette declare the authorities competent to issue and change the particulars in a smart card.

4. It shall be the duty of every citizen to bring to the notice of competent authorities set up for the purpose every detail required for the purposes of the smart card.

Duty of citizen to inform the details to competent authorities.

5. (1) In case of any change in the particulars of the smart card, every citizen shall, in writing, bring it to the notice of the competent authority within a period of sixty days.

Recording of change in particulars on smart card.

(2) On receipt of an application under sub-section (1), the competent authority shall enter the new particulars in the smart card in such manner as may be prescribed:

Provided that the Central Government shall ensure that the changes in the smart card are made online by the year 2007.

6. Notwithstanding anything contained in any other law for the time being in force, the smart card issued under sub-section (1) of section 3 shall be the conclusive proof for the purposes of determining the age, residence and other details of the citizen and shall be used for such other purposes as may be prescribed.

Smart card to be proof for determine details of citizens.

Surrender of
smart card.

7. If a citizen is leaving the country for a period exceeding one year or intends to settle abroad permanently, he shall surrender the smart card with the competent authorities failing which he shall not be allowed to leave the country.

Denial of
benefits of
Government
schemes to
citizen not
having smart
card.

8. Notwithstanding anything contained in any other law for the time being in force, a citizen who does not hold a smart card shall not be entitled to the benefits of any of the schemes of the Central Government, the State Governments or their undertakings.

Power to
make rules.

9. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the rules may provide for all or any of the following matter, namely:—

(a) the size and shape of the smart card, the photograph to be affixed to the same and the letter to be used therein;

(b) the competent authorities empowered to issue the smart card and make changes in it;

(c) the manner and purposes in which smart cards can be used;

(d) the manner in which publicity shall be given to the provisions of the Act so as to enable the people to get their smart cards prepared;

STATEMENT OF OBJECTS AND REASONS

Issue of smart card to each and every citizen in the country is one of the most essential requirements of the day keeping in view the security threat to the nation. Our nation is prone to infiltration from all sides, and a lot of infiltrations do take place from neighbouring countries. Therefore, the citizens do need some sort of document to prove their identity whenever confronted during security checks.

With the commitment of the nation towards e-governance, issuing of smart card to a citizen would be a step in that direction. Many countries have adopted this method of providing identity to their citizens. The smart card will be containing all the necessary details about a person. It can be used in banks, smart card readers, etc. for financial and other transactions in an efficient manner. In the long run, it will save a lot of time and energy.

Hence this Bill

KALRAJ MISHRA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for issuing of smart card to every citizen of the country and for setting up of authorities for issue of smart cards for issuing and changing its particular. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees twenty crore per annum on account of appointment of staff who will issue the identity cards.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Government to make rules for carrying out the purposes of the Bill and the rules relate to matters of details only. The delegation of legislative power is, therefore, of a normal character.

VIII

BILL NO. XXXVIII OF 2006

A Bill to regulate the sale of the traditional herbal medicines which are being marketed without any licence and control under the cover of being manufactured by formulation provided in the ancient texts and to provide for compulsory listing and verification of ingredients of traditional herbal medicines and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
Commencement.

1. (1) This Act may be called the Traditional Herbal Medicine (Regulation of sale and compulsory evidence based trial) Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Authority" means the Traditional Herbal Medicine Quality Control and Verification Authority established under section 6;

(b) "evidence-based trial" means testing of a traditional herbal medicine for its results of curing any disease wherein its toxicity and adverse effects have also gone through;

(c) "over the counter (OTC)" means availability of a traditional herbal medicine in any shop without any prescription by the authorised person;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "traditional herbal medicine" means any formulation being used either in homoeopathy or ayurvedic system of medicine which has been mentioned in any of the ancient texts notified by the Central Government under the Drugs and Cosmetics Act, 1940.

Act No. of
1940.

3. On and from the appointed day, as the Central Government may by notification in the Official Gazette appoint in this behalf, no traditional herbal medicine shall be sold or made available over the counter.

Ban on sale of traditional herbal medicines over the counter.

4. Every retailer or seller of traditional herbal medicines shall have to obtain a licence to sell traditional herbal medicines from the Authority in such manner as may be prescribed.

Licence to sell traditional herbal medicine for retailer.

5. (1) Every manufacturer of traditional herbal medicine shall list the ingredients of each medicine on the packing of the medicine along with their accurate quantity.

Manufacture to list the ingredient on packing of each traditional herbal medicine.

(2) Every manufacturer of traditional herbal medicine shall clearly and boldly indicate on the packaging of the medicine any side effects and warning of contra-indications in such manner as may be prescribed.

6. (1) The Central Government shall, by notification in the Official Gazette, establish an authority to be known as Traditional Herbal Medicine Quality Control and Verification Authority for carrying out functions assigned under this Act.

Establishment of Traditional Herbal Medicine Quality control and verification Authority.

(2) The Authority shall have its headquarters at Lucknow in the State of Uttar Pradesh.

(3) The Authority shall have a Chairman who shall be the retired Judge of High Court and five other members to be appointed by the Central Government.

(4) The terms and conditions of the Chairman and the members of the Authority shall be such, as may be prescribed.

(5) The Central Government shall provide such number of officers and staff as may be required for efficient functioning of the Authority.

(6) The procedure for appointment of the members, their powers and functions and the procedure of filling up of vacancies shall be such, as may be prescribed.

(7) The Authority shall have subordinate offices in the capitals of each of the States and Union Territories of the country.

(8) The Authority shall open as many laboratories for the purpose as may be required for meeting the objectives of this Act:

Provided that the number of laboratories shall not be more than three in one State or Union Territory, as the case may be.

7. The functions of the Authority shall be,—

Functions of Authority.

(i) to ensure quality control of the traditional herbal medicines;

(ii) to arrange to verify the ingredient of any medicine;

(iii) to act on the complaint received in respect of any medicine;

(iv) to recommend cancellation of licence for selling of any traditional herbal medicine;

(v) to make the people aware about its findings of various spurious medicines;

(vi) to conduct survey and inspection and random sample checking of every manufacturer at least once in a year through its laboratories.

(vii) any other function that may be assigned.

Central
Government to
provide funds.

8. The Central Government shall by due appropriation made by Parliament by law in this behalf from time to time, provide adequate funds for the purpose of this Act.

Penalty.

9. Whoever violates the provisions of this Act shall be liable for imprisonment for a term which may extend to three years and shall also be liable to fine which may extend to ten lakh rupees.

Offence by a
company.

10. (1) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation:— For the purpose of this section:—

(i) "company" means anybody corporate and includes a firm or other association of individuals; and

(ii) "director", in relation to a firm, means a partner in the firm.

Offences to be
cognizable.

11. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 the offences under this Act shall be cognizable and non-bailable.

Act No. 2
of 1974

Power to
Remove
Difficulties.

12. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

Overriding
effect of the
Act.

13. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force on the subject and save aforesaid the provisions of the Act shall be in addition to and not derogation of any other law for the time in force.

Power to make
rules.

14. The Central Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The market in the urban and semi-urban area in the country is full of traditional herbal preparations now a days. These medicines claim to cure various ailments from general fatigue to diabetes to cancer. According to a report, a causal and random checking and testing of these medicines by the Department of Pharmacology of one of the premium referral hospitals in Delhi revealed that many of them were contaminated containing steroids which in the long run could lead to suppression of immune system, growth retardation in children, diabetes and cataracts. Under the pretext of ancient texts and without any legal requirement of any licence to sell these medicines, these unchecked traditional medicines are causing serious ailments to their innocent users. The absence of quality control and mechanism to verify the ingredients and the efficacy of many of these medicines have lead to the proliferation of the practice of dispensing these medicines.

There is no doubt about the prescription and formulations available in the ancient text, but at the same time, these medicines must go through the test for their toxicity and evaluation studies. To say that herbal drugs do not have any side effects does not hold good as adverse effects are dependent on the time for which a particular drug is taken and the prescribed dosage. This argument does not take into account the basic principle that any drug having a good effect will have an adverse effect too. Therefore, all herbal drugs are not safe in all circumstances. Some medicines are known to contain heavy metal including mercury and gold and some homoeopathic and ayurvedic medicines contain arsenic. These have to be given in minute dosages under constant supervision, which does not happen. The side effects of any medicine have to be listed on the cover. But manufactures are not even listing the ingredients of the medicine. Medicine containing steroids and metals including mercury and arsenic are available over the counter with no warning or contra-indications. Market is flooded with herbal weight loss medicines, which have been found to be very harmful to kidneys and at times develop urinary track cancer.

The rationale for not demanding evidence, based trial or efficacy test for traditional herbal drugs because they have been used for centuries and so they do not need fresh test, does not hold good as there are many fly by night operators who have taken advantage of this system. Although there are traditional herbal medicines from reputed companies, but many a time these are concoctions prepared by quacks who after duping their patients run away with money.

Internationally, move towards regulation of traditional herbal medicine has already been initiated when certain medicines were found to be damaging human organs in some countries.

Therefore, it is high time that a regulatory mechanism for sale and evidence based trial may be adopted for traditional herbal medicines so as to obviate the unscrupulous elements which are taking advantage of the system.

Hence this Bill.

KALRAJ MISHRA

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for establishment of an authority to be known as Traditional Herbal Medicine Quality Control and Verification Authority for carrying out functions assigned under this Bill. Clause 8 provides that the Central Government shall by due appropriation made in this behalf from time to time, provide adequate funds for the purposes of this Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees fifty crore per annum.

A non-recurring expenditure of about rupees five crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Government to make rules for carrying out the purposes of the Bill and the rules relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

IX

BILL NO. XXXVI OF 2006

A Bill further to amend the Indian Evidence Act, 1872.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Evidence (Amendment) Act, 2006.

Short title,
and com-
mencement.

(2) It shall come into force at once.

1 of 1872.

2. In the Evidence Act, 1872, after section 114A, the following section shall be inserted,
namely:—

Insertion of
new section
114B.

"114B. In a prosecution for culpable homicide or murder, as the case may be, of a person by a police officer the court may presume that the death was caused when that person was in the custody of the police, by the police officer having custody of that person during that period after taking into account all the relevant circumstances and facts unless otherwise proved by that police officer."

Presumption
as to death
while in Police
custody.

STATEMENT OF OBJECTS AND REASONS

Custodial violence leading to injuries, rape or deaths of suspects or accused has become very common in our country. Of late, there is sudden spurt in the incidents of custodial deaths. The courts while deciding cases of custodial deaths have been passing strictures against the police and awarding compensation to the families of the deceased. The Human Rights Commission in its Reports has also been referring to custodial deaths and expressing concern over their increasing number. The Commission, in fact, has written to all the States and Union Territories making it obligatory for them to report every incident of custodial death to the Commission within 24 hours failing which the Commission will be free to conclude adverse. But, even after all these observations and developments, the incidents of custodial deaths are increasing unabated and a large number of them go unreported. It is no secret that while in police custody all kinds of third degree methods are used by police officers to extract information from the accused which, many a time, lead to custodial death. The courts have issued several guidelines for police in order to prevent the custodial death, but they are observed more in breach. In case of prosecution of police in custodial deaths, it is very difficult to find any eye-witness. Besides, any other policeman never comes forward to give evidence against his fellow policeman accused of custodial death. Therefore, it is very difficult to implicate a policeman in the absence of evidence. Due to lack of action on these police officers, they have become insensitive and have developed a sense of impunity. Under the circumstances, it may be appropriate if the courts while trying a police officer accused of custodial death should presume that it has been caused by the police officer and the onus of proving innocent is fixed on the police officer.

The Law Commission in its 113th and 185th Reports has recommended changes in the law with regard to causing bodily injury to a person while in police custody. But, nothing has been done in this regard so far and the situation has been allowed to deteriorate. Therefore, a beginning is necessary at least in cases of custodial deaths.

It is, therefore, necessary that changes in the Indian Evidence Act are made regarding presumption by court if the death of a person takes place while he was in police custody. Such an amendment will definitely serve as deterrent to the police officer and reduce the incident of custodial deaths.

Hence this Bill.

KALRAJ MISHRA

X

BILL NO. XXXIX OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2006.

(2) It shall come into force with immediate effect.

2. In clause (1) of article 275 of the Constitution, before the existing first proviso, the following provisos shall be added, namely:—

“Provided that there shall be paid out of the Consolidated Fund of India as Grants in aid of the revenues of a State such capital and recurring sums as may be necessary to enable that State to meet the costs of implementation of various welfare schemes or developmental works undertaken by the State in the larger public interest and if that State is unable to implement such schemes or works, as the case may be, due to severe financial crisis being experienced by the State:

Provided further that a sum of rupees fourteen thousand crores shall be allocated as grants in aid of the revenues of the State of Orissa as one time grant and rupees five thousand crores per annum as recurring expenditure and such amount shall be charged on and paid out of the Consolidated Fund of India.

Short title
and
commence-
ment.

Amendment
of article
275.

STATEMENT OF OBJECTS AND REASONS

Orissa is one of the economically, educationally, industrially and socially backward and underdeveloped State of the Indian Union mainly due to consistent neglect by the Centre. Moreover, nature too has not been kind to the State as many areas are drought prone in the State. KBK districts have become synonymous with drought, hunger and backwardness. The coastal areas are vulnerable to cyclones or super cyclone or even Tsunami. The State is inhabited by tribals and poor people and it is faced with numerous problems such as severe unemployment, lack of industrial development due to poor infrastructure, lack of healthcare facilities resulting in steep increase of various diseases mainly the vector borne diseases like malaria etc., waterborne diseases, T.B., Cancer, AIDS and other diseases. The road network is in bad shape. There is lack of educational facilities. This has resulted in severe poverty in the State. Frequent cyclones and super cyclone of the recent past had hit the economy of the State very hard. Present State Government is doing its level best to turn around the economy of the state and bring prosperity there but this will require huge Central assistance.

The Chief Minister of Orissa had recently demanded a Special Economic Package of rupees 13096/- crores for the implementation of various development projects and welfare schemes for the people of Orissa. Thereafter, special funds to the tune of five thousand crore rupees will be required every year. Article 275 of the Constitution provides for payment of grants in aid of the revenues of various States who are in need of financial assistance for various purposes. To enable the Centre to release funds to Orissa amendment of this article has become necessary.

Hence this Bill.

B. J. PANDA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for grants in aid of the revenues of the State facing severe financial crisis. It also provides for one time grant in aid of rupees fourteen thousand crores and five thousand crores rupees as recurring annual expenditure. The Bill, if enacted, will involve this expenditure from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

XI

BILL NO. XLI OF 2006

A Bill to prohibit unsolicited telephone calls by business promoters or individuals to persons not desirous of receiving such calls and for the protection of individual privacy of citizens and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Unsolicited Telephonic Calls and Protection of Privacy Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires:—

Definitions.

(a) "prescribed" means prescribed by rules made under this Act;

(b) words and expressions used but not defined in this Act but defined in the Indian Penal Code, 1860, the Indian Telegraph Act, 1885 and the Information Technology Act, 2000 shall have the same meaning as is respectively assigned to them in those Acts.

Prohibition of making unsolicited telephone calls.

3. (1) The making of unsolicited telephone calls for promoting business interests or for other purposes or for harassment is hereby prohibited.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

Mobile operators not to pass on information of subscribers.

4. Notwithstanding anything contained in any other law for the time being in force, the licenced Mobile operators shall not pass on the information of their subscribers to any tele-marketing service provider, Banks, Insurance Companies or such other service provider so as to protect the subscribers from unsolicited telephone calls.

Right to privacy.

5. (1) Every person shall have the right of privacy and to lead and enjoy his personal life without unwarranted infringement thereof and no person shall be deprived of this right except according to procedure established by law for the time being in force.

(2) whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

Restriction on use of cellphone camera.

6. No person shall use a cellular phone having built in camera if it does not produce a sound of minimum sixty-five decibels and flashes a light when used to take a picture of any object or with such other conditions as may be prescribed.

Restrictions of photography violating privacy.

7. Subject to public order, morality and health no person with a view to blackmail the person or for making commercial gains therefrom, shall photograph:—

(a) any part or whole of a human body whether nude or semi-nude or otherwise without the consent of the person concerned; and

(b) any part or whole of a human body at a public place without the consent of the person concerned.

Penalty.

8. (1) Whoever contravenes the provisions of,—

(i) Section 3 shall be punished with imprisonment for a term which shall not be less than two years but may extend to four years and also with fine which may extend to two lakh rupees;

(ii) Section 5 shall be punished with imprisonment for a term which shall not be less than five years but may extend to seven years and also with fine which may extend to five lakh rupees;

(iii) Section 6 shall be punishable with imprisonment for six months or with fine which may extend to two lakh rupees or with both.

(2) Any mobile company which contravenes the provisions of section 4 shall be punished with fine which may extend to ten lakh rupees and suspension of its licence for a period of one year.

Offences to be cognizable.

9. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 every offence punishable under this Act shall be cognizable.

2 of 1974.

Overriding effect of the Act.

10. The provision of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make rules.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Of late, telephone subscribers, both mobile phones and land line phones, are facing the problem of unsolicited calls from Tele marketing Service Providers, Private Banks, Insurance Companies and money lenders offering loans, credit cards, motor vehicles and so on and so forth offering various incentives, schemes and gift offers in order to promote their business interest. Many a time these calls are very irritating particularly when someone is very busy in meetings, official work, family functions etc. and when received at odd hours. To get rid of this menace a petition has also been filed in the Supreme Court of India. As regards land line phones MTNL or BSNL publish telephone directories but in case of cellular mobile phones the information can be given generally by the mobile phone operating companies. The menace of unsolicited phone calls needs to be stopped by providing deterrent punishment through legislation.

Similarly, the much publicised Multi Media Messaging Service (MMS) episode of a Public School in Delhi, the case of a Pune based landlord intruding on the privacy of his female tenants, videography of unsuspecting newly wed couples on honeymoon in a five star hotel, have put question marks on citizens' right to privacy. With increasing commercialization of sex, people use phone cameras to secretly capture private images of girls and women and then blackmail them and embarrass them. These cameras are used to take up close photographs of private parts of unwary girls and women in gyms, beauty parlours, swimming pools, hotel room, bathrooms, etc. or even in busy public places. This shows how the unscrupulous elements are misusing and exploiting the new advancement in technology. Hence it becomes the uppermost duty of the State to protect its citizens and the society as well. In order to control this virtual lawlessness a new law has become necessary to provide deterrent action against the defaulters.

Hence this Bill.

B. J. PANDA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XII

BILL No. XL OF 2006

A Bill to provide for the establishment of an autonomous Central Authority to ensure rapid, accelerated and overall development of poor, underdeveloped and backward areas and regions of the country which lag behind in matters of development of economic, social, educational, technical, infrastructural and industrial fields and assure their speedy development in a planned manner and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Underdeveloped and Backward Areas and Regions (Special Provisions for Accelerated Development) Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires:—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "Authority" means the Underdeveloped and Backward Areas and Regions Development Authority established under Section 4;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "underdeveloped and backward areas and regions" means the areas and regions which are economically, socially, educationally and industrially lagging behind from the rest of the country and so declared by Central Government under Section 3.

3. The Central Government shall, as soon as may be, but not later than one year from the commencement of this Act, by notification in the Official Gazette, declare such areas and regions of the country as poor, underdeveloped and backward areas and regions, which in its opinion require priority attention to bring them at par with the rest of areas and regions of the country.

Notification of underdeveloped and backward areas and regions.

4. (1) The Central Government shall, by notification in the Official Gazette, establish an Authority to be known as the Underdeveloped and Backward Areas and Regions Development Authority.

Establishment of Underdeveloped and Backward Areas and Regions Development Authority.

(2) The Authority shall be a body corporate, by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The headquarter of the Authority shall be at Bhubaneswar in the State of Orissa and the authority may, with the consent of the appropriate Government establish offices at other places in the country.

5. The Authority shall consist of the following members:—

Composition of the Authority.

(a) The Prime Minister who shall be the *ex-officio* Chairman of the Authority.

(b) The Deputy Chairman of the Union Planning Commission who shall be the Vice Chairperson of the Authority;

(c) five members of Parliament representing underdeveloped and backward regions of whom three shall be from the Lok Sabha and two from the Rajya Sabha to be nominated by the Presiding Officers of the respective Houses;

(d) ten members to be appointed by the Central Government representing the Planning Commission and Ministries/Departments of Agriculture, Rural Development, Industry, Finance, Railways, Road Transport, Human Resource Development, Power and Water Resources of the Union Government;

(e) not more than five members to be appointed by the Central Government by rotation in the alphabetical order to represent the Governments of the States having the underdeveloped and backward areas and regions.

6. (1) The Authority shall follow such procedure for holding its meetings and the quorum for such meetings shall be such as may be prescribed.

Pracedure to be followed by the Authority.

(2) No act or proceeding taken by the Authority under this Act shall be questioned on the ground merely of;—

(a) the existence of any vacancy in, or defect in the Constitution of the Authority,

or

(b) any omission, defect or irregularity not affecting the merits of the case.

Secretariat of the Authority.

7. (1) The Authority shall have a Secretariat consisting of such officers, employees and establishment as may be prescribed.

(2) The conditions of service, emoluments and other perks of the officers and employees shall be such as may be determined from time to time for the efficient functioning of the Secretariat of the Authority.

Funds of the Authority.

8. The Central Government shall provide, from time to time, after due appropriation made by Parliament by law in this behalf, adequate funds for the developmental works to be undertaken by the Authority and for its administrative expenses.

Authority to ensure rapid growth and development of underdeveloped and backward areas and regions.

9. (1) It shall be the duty of the Authority to undertake such special steps in order to ensure rapid and accelerated development of underdeveloped and backward areas and regions of the country, as it may deem necessary and expedient to do so for the overall development of such areas and regions.

(2) Without prejudice to the generality of the foregoing provisions, the Authority shall initiate measures for the accelerated development particularly of industrial growth with immunity of investments, infrastructure pertaining to railways, roads, communication network, agriculture, irrigation facilities by implementing watershed projects in a big way and constructing wells, bore wells, canals, ponds, etc., potable water facilities, power projects pertaining to thermal, hydel, solar and wind energies, forests, agro based industries and livestock, poultry, piggery, orchards, cooperatives of milk and other things, cottage and village industries, health services, family welfare, education, network of PDS, Public Distribution System, vocational avenues, tourism and such other activities as the Authority may deem necessary for the overall development of the underdeveloped and backward areas and regions of the country.

Appropriate Government to provide requisite assistance to the Authority.

10. The appropriate Government shall, for the purposes of this Act, provide the requisite necessary assistance to the Authority in undertakings its developmental work in the areas and regions within the territorial jurisdiction of such Government.

Power to remove difficulties.

11. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.

Annual report of the Authority.

12. The Authority shall submit an annual report, in such form and in such manner, as may be prescribed, of its activities of development undertaken under this Act to the President of India who shall cause the report to be laid before both the Houses of Parliament along with action taken by Government thereon as soon as it is received.

Supplementing provision.

13. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Power to make rules.

14. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

It is very awesome that even after more than five decades of independence and implementation of as many as Nine Five Year Plans and the Tenth Five Year Plan being midway of implementation there are many States, areas and regions which are still underdeveloped, backward and inflicted with extreme poverty, hunger and sufferings in the country. The eastern parts of the country particularly Orissa, Bihar, Jharkhand, Eastern Uttar Pradesh, entire North-Eastern region, Chhattisgarh and Tribal areas of Madhya Pradesh in the Central India, Vidarbha, Marathwada, Saurashtra, Kutchh desert and famine prone areas of Rajasthan in the western parts, Telengana, Mehboob Nagar, Rayalseema in Andhra Pradesh and other areas in Southern parts of the country are still most backward. Kalahandi-Bolangir-Koraput (KBK) in Orissa are synonymous with backwardness and hunger. Non development of many areas and regions has given rise to demand for creation of new States. Some new States have already been created whereas the demand for other States like Vidarbha, Gorkhaland, Telengana, Harit Pradesh, Bodoland, etc. is being raised frequently. Though reducing regional imbalance is one of the primary goals of our Five Year Plans but, unfortunately, this imbalance still persists which clearly shows that we have not paid the required attention to the development of such States, areas and region in the right earnest.

So in the larger interest of the country as a whole, it has become necessary to develop such underdeveloped States, areas and regions on priority basis for which special efforts have to be made and necessary steps need to be taken at the national and State levels to secure rapid and accelerated development of such States, areas and regions. For this purpose an autonomous Authority should be established for implementing State, area and region based package programmes for their overall development in coordination with Central and State Governments so as to ensure accelerated development of underdeveloped and backward States, areas and regions in the country.

Hence this Bill.

B.J. PANDA

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of Underdeveloped and Backward Areas and Regions Development Authority. Clause 8 provides for the funds of the Authority. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is not possible to assess the actual requirement of funds at this stage but it is estimated that a recurring expenditure to the tune of two thousand crore rupees per annum is likely to be involved.

Non-recurring expenditure of about one hundred crore rupees is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill, which will relate to matters of details only.

The delegation of legislative power is of normal character.

YOGENDRA NARAIN,
Secretary-General.